

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated August 16, 2004, indicated that claims 1, 9, 10, 12, 13, 16 and 19 are rejected under 35 U.S.C. § 102(e) over *Ziegler* (U.S. Patent No. 6,711,151); claims 20-22 are rejected under 35 U.S.C. § 102(e) over *Vaisanen et al.* (U.S. Patent No. 6,560,443); claims 2-7, 17 and 18 are rejected under 35 U.S.C. § 103(a) over *Ziegler* in view of *Comer* (U.S. Patent No. 6,154,648); and claims 8, 11, 14 and 15 are rejected under 35 U.S.C. § 103(a) over *Ziegler* in view of *Sugar et al.* (U.S. Patent Appln. Pub. No. 2002/0061031).

Applicant respectfully traverses each of the prior art (Sections 102(e) and 103(a)) rejections because the Office Action fails to present a reference that corresponds to the claimed invention. The claimed invention is directed to a communication system including a beacon arranged to broadcast messages using a first transmission technique (or protocol) and a second, different transmission technique that includes a spread spectrum transmission technique. Applicant has amended each of the independent claims, claims 1, 16, and 20, to further clarify the two different transmission techniques. These two techniques are discussed, for example, at page 3, lines 1-10 and page 6, lines 19-31. The Office Action fails to identify evidence of where the cited references (*e.g.*, the '151 and/or '443 references) teach the claimed use of two such different transmission techniques. Without a presentation of correspondence to each of the claimed limitations, the prior art (Sections 102(e) and 103(a)) rejections are improper and cannot be maintained.

For example, using the Section 103(a) rejection of claim 8, Applicant respectfully traverses because this rejection acknowledges that the '151 reference does not have the claimed use of the two different transmission techniques. Moreover, the proposed modification of the '151 reference would undermine the purpose and operation of the '151 reference. The MPEP states that when a proposed modification would render the teachings being modified unsatisfactory for their intended purpose, then there is no suggestion or motivation to make the proposed modification under 35 U.S.C. § 103(a). *See* MPEP § 2143.01. The '151 reference has a clearly stated object of "synchronizing to

a channel hopping sequence of a communication network without joining the network.”

See col. 4, lines 25-29. The Office Action suggests modifying the ‘151 beacon to broadcast using direct sequence spread spectrum instead of frequency hopping, thereby undermining the purpose by removing the ability to synchronize “to a channel hopping sequence.” Further, the proposed modification would undermine the operation of the ‘151 reference because the master and slave device clocks would operate using different transmission techniques thereby preventing synchronization. See col. 4, lines 34-53.

Therefore, the proposed modification, as well as the Section 103(a) rejection, is improper.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Mr. Peter Zawilski, of Philips Corporation at (408) 474-9063.

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